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9 **RIVERSIDE SHERIFFS' ASSOCIATION**

10 **SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE**

12 **RIVERSIDE SHERIFFS' ASSOCIATION,**

13 Petitioner,

14 v.

15 **COUNTY OF RIVERSIDE, a political**
subdivision of the State of California, CHAD
16 **BIANCO, Sheriff-Coroner, County of**
Riverside, BOARD OF SUPERVISORS,
17 **County of Riverside, and Does 1 through 10,**
inclusive,

18 Respondents.
19
20

Case No.: **RIC1900789**

**DECLARATION OF BILL YOUNG
AND EXHIBITS THERETO IN
SUPPORT OF APPLICATION FOR
ALTERNATIVE WRIT OF MANDATE
AND REQUEST FOR STAY ORDER**

Date: 1/18/2019

Time: 8:30 AM

Dept.: 04

21 **DECLARATION OF BILL YOUNG**
22

23 I, Bill Young, do declare:

24 1. I have personal knowledge of the facts contained herein and am competent to testify if called upon
25 to do so.

26
27 2. I am the President of the Riverside Sheriffs' Association ("RSA"). The RSA is an employee
28

FILED
Superior Court of California
County of Riverside

1/17/2019
A. Hernandez

By Fax

1 organization as defined in *Government Code* Section 3500, *et seq.* recognized to represent all Deputy
2 Sheriffs, Corporals, Correctional Deputies, District Attorney Investigators, and Probation Officers
3 employed by the County of Riverside concerning wages, hours, working conditions, and
4 employer-employee relations. The employees the Association represents are peace officers as defined
5 by California *Penal Code* Section 830.1.

6
7 3. Prior to the effective date of Senate Bill 1421, Chapter 988 of the 2017-2018 Regular Session ("SB
8 1421"), information contained within Riverside Sheriff's Association members' peace officers' personnel
9 files was deemed confidential pursuant to California *Penal Code* Sections 832.7 and 832.8, and subject
10 to exemption from disclosure pursuant to the California *Public Records Act* ("CPRA"), *Government*
11 *Code* Section 6250, *et seq.* The information considered confidential included complaints of misconduct,
12 investigation of alleged misconduct, records related to peace officer discipline.

13
14 4. The existing right of privacy of RSA's represented peace officers, and the corresponding legal
15 obligation by the County of Riverside /Riverside Sheriff's Department ("RSD") to maintain such peace
16 officer personnel records as confidential, caused such members to make significant employment
17 decisions in reliance on that confidentiality and privacy. For instance, RSA's represented employees are
18 legally entitled to administratively appeal findings of misconduct and imposed discipline pursuant to
19 applicable County of Riverside and Sheriff's Department rules and regulations, and collective bargaining
20 agreements. The existence of such confidentiality of peace officer personnel records is often a factor in
21 the decision by officers to forgo their right to appeal accusations of alleged misconduct or severity of
22 discipline, and instead, reach a prompt resolution with the Riverside Sheriff's Department in the
23 furtherance of positive labor relations and in preservation of resources; despite an officer's underlying
24 disagreement with the propriety of such disciplinary action. However, if peace officers understood that
25 they did not or would not maintain privacy in their personnel records, they likely would have made
26 different decisions with respect to their ability to appeal accusations of alleged misconduct.

1 5. Pursuant to an email dated January 13, 2019 to RSA Assistant General Counsel Muna Busailah, from
2 Assistant Sheriff Dennis Vrooman, it was confirmed that the Riverside Sheriff Chad Bianco intended
3 to retroactively apply SB 1421 beginning January 1, 2019. Attached hereto as Exhibit A is a true and
4 correct copy of the January 13, 2019 email.
5

6 6. Unless and until a Stay Order is issued by the Court in this case, Petitioner's represented peace officers
7 will suffer irreparable injury and damage by the retroactive application of Senate Bill 1421, in that such
8 an application would unlawfully violate the constitutional and statutory protection of peace officers to
9 the confidentiality of their peace officer personnel records regarding incidents or reflecting conduct
10 occurring prior to January 1, 2019; a right on which many RSA-represented peace officers relied in
11 making decisions to appeal or not to appeal accusations of alleged misconduct.
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13 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
14 correct to the best of my knowledge and was executed on January 17, 2019 at Riverside, California.
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16 
17 Bill Young
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EXHIBIT-A

Muna Busailah

From: Vrooman, Dennis <dvrooman@riversidesheriff.org>
Sent: Sunday, January 13, 2019 9:23 PM
To: Muna Busailah
Subject: Re: SB1421

Hi Muna,

As we discussed last week, the Sheriff understands SB1421 is retroactive to include those cases which are up to 5 years before the law went into effect on January 1, 2019.

Thank you,

Dennis Vrooman
Assistant Sheriff
Riverside County Sheriff's Department

On Jan 9, 2019, at 12:14 PM, Muna Busailah <m.busailah@police-defense.com> wrote:

Assistant Sheriff Vrooman, attached please find the letter sent to Sheriff Bianco yesterday. Mr. Jeb Brown and Ms. Michelle Quiroz from County Counsel were copied on the letter.

I appreciate hearing back from you regarding the County's position. Thank you.

Muna Busailah

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<Letter to Sheriff Chad Bianco 01-07-19.pdf>



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January 7, 2019

VIA U.S. MAIL AND ELECTRONIC MAIL

Chad Bianco, Sheriff-Coroner

Riverside County Sheriff's Department

4095 Lemon Street

Riverside, CA 92501

Email: sheriffadmin@riversidesheriff.org

Re: Operation of California Senate Bill 1421

Dear Sheriff Bianco:

On December 26, 2018, this firm sent a letter to the previous Sheriff, on behalf of the Riverside Sheriffs' Association, requesting that the Riverside County Sheriff's Department and the County of Riverside refrain from retroactively enforcing or applying SB 1421's amendments to *Penal Code* sections 832.7 and 832.8 in any manner which would result in the disclosure or production of peace officer personnel records and information regarding incidents or reflecting conduct occurring prior to January 1, 2019, without a definitive court ruling stating such action is permissible. (Copy enclosed.) Unfortunately, we did not receive a reply, so we are requesting that you respond to that request now.

While you may be aware that the California Supreme Court recently denied the Petition for a Writ of Mandamus and Request for Stay filed by the San Bernardino County Sheriff's Employees' Benefit Association (SEBA), that denial was issued without commenting on the merits of the legal arguments. Therefore, that case cannot be used as a binding precedent. So, for the moment, the question of whether SB 1421 applies retroactively remains unanswered.

Sheriff Chad Bianco

Re: Operation of California Senate Bill 1421

January 7, 2019

Page 2

As stated in the December 26, 2018 letter, unless we hear from you that the Department does not intend to apply SB 1421 retroactively until there is a definitive court ruling on the matter, (such as a published Court of Appeal decision), the RSA intends to file a similar petition in the Riverside County Superior Court - requesting that court to issue an order enjoining any retroactive enforcement of SB 1421 by the County of Riverside. If the County of Riverside can wait for a Court of Appeal ruling on the issue, there would be no need to involve the local court system in this dispute. Please note, that the Superior Court of Los Angeles County recently stayed the "retroactive" enforcement of SB 1421, (in that County), so one can expect there will be a definitive court ruling on the issue in due course. (Copy of court Order enclosed for your review.) If we can agree to wait until such time, both the County of Riverside and the RSA would save time, effort and substantial attorney fees.

Thank you for your assistance in this matter of great public importance.

Cordially,



MUNA BUSAILAH

General Counsel for the RSA

Enclosures: Letter to Stanley Sniff, dated December 26, 2018
Order Directing Alternative Writ of Mandate and Stay Order

cc: County Counsel, County of Riverside
Bill Young, President, RSA



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December 26, 2018

VIA U.S. MAIL AND ELECTRONIC MAIL

Stanley Sniff, Sheriff-Coroner

Riverside County Sheriff's Department

4095 lemon Street

Riverside, CA 92501

Email: sheriffadmin@riversidesheriff.org

Re: Operation of California Senate Bill 1421

Dear Sheriff Sniff:

This letter is to advise you of a writ petition that is currently pending in the California Supreme Court. (A copy is attached for your reference.) The writ has been filed by SEBA, the San Bernardino County Sheriff's Employees' Benefit Association. The writ requests that the Court issue an immediate order staying or enjoining any retroactive enforcement of SB 1421 by any "public agency employer of peace officers as defined in *Penal Code* section 830.1 during the pendency of these proceedings." The Riverside Sheriffs' Association (RSA) has filed an Amicus Curiae Letter in support of the SEBA petition (copy attached). Please note that if, for any reason, the Supreme Court decides not to issue a "stay order", the RSA intends to file a similar petition in the Riverside County Superior Court requesting that court to issue an order enjoining any retroactive enforcement of SB 1421 by the County of Riverside.

Sheriff Stanley Sniff
Re: Operation of California Senate Bill 1421
December 26, 2018
Page 2

California Senate Bill 1421, effective January 1, 2019, amends *Penal Code* sections 832.7 and 832.8, respecting the confidentiality of peace officer personnel records. SB 1421 eliminates the long-established statutory confidentiality of specified peace officer and custodial officer personnel records, and information contained in such records. It is the position of the RSA, that since SB 1421 does not contain an express retroactivity provision, the intent of the legislature was not to abridge existing law as to records and information pertaining to incidents and conduct pre-dating January 1, 2019, the effective date of the legislation. Accordingly, the position of the Riverside County Sheriff's Department and the County of Riverside should be the same - that a retroactive application of SB 1421 would violate the constitutional and statutory protection of peace officers to the confidentiality of their peace officer personnel records regarding incidents or reflecting conduct occurring prior to January 1, 2019.

Please acknowledge receipt of this communication, and confirm that the Riverside County Sheriff's Department and the County of Riverside will refrain from retroactively enforcing or applying SB 1421's amendments to *Penal Code* sections 832.7 and 832.8 in any manner which would result in the disclosure or production of peace officer personnel records and information regarding incidents or reflecting conduct occurring prior to January 1, 2019, without a definitive court ruling stating that such action is permissible.

Further, please confirm that should the Riverside County Sheriff's Department and/or the County of Riverside receive a request, pursuant to SB 1421, relating to the disclosure or production of peace officer personnel records and information regarding incidents or reflecting conduct occurring prior to January 1, 2019, for any current or former peace officer employed by the County of Riverside, both the RSA and the peace officer be notified of the records request. This will allow the peace officer and the RSA to take appropriate action to protect the constitutional and statutory protection to the confidentiality of his or her personnel records.

Thank you for your assistance in this matter of great public importance.

Cordially,



MUNA BUSAILAH

General Counsel for the RSA

Enclosures: Verified Petition for Writ of Mandamus or Other Extraordinary Relief
Amicus Curiae Letter In Support Of Petition

cc: County Counsel, County of Riverside
Bill Young, President, RSA